

Decision 15-05-011 May 7, 2015

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of MTI (USA), LLC for authorization to obtain a Certificate of Public Convenience and Necessity to provide Prepaid Calling Card Telecommunications Services within California.

Application 14-12-019  
(Filed December 19, 2014)

**DECISION GRANTING WITHDRAWAL OF THE APPLICATION  
WITHOUT PREJUDICE AND GRANTING THE MOTION FOR LEAVE  
TO FILE CONFIDENTIAL MATERIAL UNDER SEAL**

**Summary**

This decision grants the request filed by MTI (USA) LLC to withdraw its application filed on December 19, 2014, for a certificate of public convenience and necessity to provide prepaid calling card telecommunications services in California. This proceeding is closed.

**1. Background**

On December 19, 2014, MTI (USA) LLC, (MTI or applicant), filed an application for a certificate of public convenience and necessity (CPCN) to provide prepaid calling card telecommunications services throughout the state of California. Applicant's principal place of business is located at 1511 N. Westshore Blvd., Suite 750, Tampa, FL 33607. Applicant is a Delaware Limited Liability Company.<sup>1</sup>

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<sup>1</sup> Application of MTI (USA) LLC For Authorization to Obtain a Certificate of Public Convenience and Necessity as a Telephone Corporation Pursuant to the Provisions of Public Utilities Code Section 1001 at 1.

The application was noticed on the daily calendar on December 23, 2014. A protest was filed by the Safety and Enforcement Division (SED) on January 22, 2015.

The SED protest noted, among other things, that MTI in response to question 3 within its application had responded that it “currently provides services throughout the state of California” in violation of Public Utilities Code Sections 885, 886 and 1013. SED’s protest also identified a potential violation of Public Utilities Code Sections 851 and 854 for Agregato, an MTI affiliate. SED alleged that Agregato did not obtain Commission authorization for its acquisition of assets and merger with Krush in 2013. In addition, SED signaled its intention to investigate MTI’s business practices in relation to compliance with standards and requirements for consumer disclosure and service for the advertising and sale of prepaid calling cards and services. SED urged the Commission to set an evidentiary hearing to consider its finding regarding MTI’s operations in California.

The Commission set a prehearing conference (PHC) for March 23, 2015, and urged MTI and SED to collaborate in advance of the PHC to resolve SED’s questions and concerns about MTI’s business practices in California.

On February 20, 2015, MTI filed a request to withdraw the application, without prejudice, due to its decision to wind down operations and dissolve its business in California.<sup>2</sup> MTI claims that its decision to dissolve is due to an insufficient level of business both within and outside California and

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<sup>2</sup> MTI (USA) LLC Motion to Withdraw its December 19, 2014 Application for a Certificate of Public Convenience and Necessity to Provide Prepaid Calling Card Telecommunications Services within California, dated February 20, 2015.

management's intent to streamline operations.<sup>3</sup> MTI stated that it was preparing to withdraw its Application when SED filed its protest in this proceeding adding further that it "fully intends to cooperate with SED in addressing any concerns it may have."<sup>4</sup> On March 9, 2015, SED responded to the motion for withdrawal stating it did not oppose the request as it could pursue action against MTI for operation without authority outside of the CPCN application process. The Commission cancelled the previously scheduled March 23, 2015, PHC, given MTI's unopposed motion to withdraw.

We will grant MTI's motion to withdraw its application without prejudice but should MTI seek authority to operate in California, it should include in any future application disclosure of this application.

## **2. Request to File Under Seal**

Pursuant to Rule 11.4 of the Rules of Practice and Procedure and General Order 66-C, MTI (USA) LLC filed a motion for leave to file confidential material under seal, Exhibit 4 of the application. Exhibit 4 contains MTI's financial statements. MTI represents that the information is sensitive, and disclosure could place MTI at an unfair business disadvantage. We have granted similar requests in the past and do so here.

## **3. Categorization and Need for Hearings**

In Resolution ALJ 176-3344, dated October 16, 2014, the Commission preliminarily categorized this application as ratesetting, and preliminarily

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<sup>3</sup> MTI (USA) LLC Motion to Withdraw its December 19, 2014 Application for a Certificate of Public Convenience and Necessity to Provide Prepaid Calling Card Telecommunications Services within California, dated February 20, 2015.

<sup>4</sup> *Ibid.* at 2.

determined that hearings were not necessary. Given that MTI has withdrawn its application, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

#### **4. Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

#### **5. Assignment of Proceeding**

Liane M. Randolph is the assigned Commissioner, Dorothy J. Duda is the assigned Administrative Law Judge (ALJ) and Hazlyn C. Fortune is the ALJ Pro Tem in this proceeding.

#### **Findings of Fact**

1. Notice of the application appeared on the Daily Calendar on December 23, 2014.
2. SED filed a protest to MTI's application on January 22, 2015.
3. On February 20, 2015, MTI filed a request to withdraw the application without prejudice.
4. SED did not oppose the motion to withdraw.
5. Pursuant to Rule 11.4 and General Order 66-C, MTI filed a motion for leave to file confidential material under seal, Exhibit 4 of the application, containing its financial statements.

### **Conclusions of Law**

1. MTI is a Delaware based LLC company offering telecommunications services.
2. MTI has signaled its intention to dissolve its operations in California.
3. MTI's motion to file under seal Exhibit 4 of the application, containing its financial statements, should be granted for a period of three years.
4. MTI's request to withdraw the application without prejudice should be granted.
5. MTI should disclose this application in any future filings for operating authority in California with the Commission.

### **O R D E R**

#### **IT IS ORDERED** that:

1. MTI (USA), LLC's request to withdraw Application 14-12-019 without prejudice is granted.
2. If MTI (USA), LLC files a subsequent application, it must reference this application.
3. MTI (USA), LLC's motion to file under seal Exhibit 4, containing its financial statements, is granted for a period of three years after the date of this order. During this three-year period, the above-named information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If MTI (USA), LLC believes that it is necessary for any of this information to remain under seal for longer than three years, MTI (USA), LLC may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

4. Application 14-12-019 is closed.

This order is effective today.

Dated May 7, 2015, at San Francisco, California.

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners